



Virginia
Regulatory
Town Hall

Final Regulation Agency Background Document

Agency Name:	Dept. of Medical Assistance Services (12 VAC 30)
VAC Chapter Number:	Chapter 80
Regulation Title:	Methods and Standards for Establishing Payment Rates-Other Types of Care
Action Title:	Repeal obstetric/pediatric fees.
Date:	5/9/00

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

These regulations propose to remove the procedures for certain obstetric and pediatric procedures from the State Plan. This final regulation will make no changes in the covered service frequency, the amount of money reimbursed for these procedures, or who the services are covered for. This action only proposes to remove these procedures from the State Plan.

Changes Made Since the Proposed Stage

Please detail any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication. Please provide citations of the sections of the proposed regulation that have been altered since the proposed stage and a statement of the purpose of each change.

No changes have been made in this final regulation over that which was proposed for comment period.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

The Director of the Department of Medical Assistance Services adopted this final regulation on May 8, 2000, and certified as to its conformance to the requirements of the Code sec. 9-6.14:7.1.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.

The Code of Virginia (1950) as amended, §32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The Code of Virginia (1950) as amended, §32.1-324, authorizes the Director of the Department of Medical Assistance Services (DMAS) to administer and amend the Plan for Medical Assistance according to the Board's requirements. On September 21, 1998, the Director approved the initiation of a public comment period for the proposed regulations. The Code, in §9-6.14:7.1 et seq., requires agencies to adopt and amend regulations subject to public notice and comment when the action being taken does not meet one of the statutory exemptions.

The Balanced Budget Act of 1997 (Public Law 105-33) provided at § 4713 that the Social Security Act (the Act) § 1926 be repealed. This section of the Act mandated the inclusion of the state's fees for specific obstetric and pediatric procedures into that state's State Plan for Medical Assistance. Now that this information is no longer mandated to appear in the Plan, DMAS is

proceeding, under the requirements of the Administrative Process Act § 9-6.14:7.1 et seq, to repeal this section from the State Plan.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The purpose of this proposal is to repeal Supplement 1 to Attachment 4.19-B (12 VAC 30-80-160) from the State Plan for the efficient and economical operation of the state agency. The agency is no longer federally required to maintain this information in the State Plan and, therefore, does not intend to do so. Retaining such information in the Plan would mislead the public, as the fees would become outdated. This change is not expected to affect the public’s health, safety, or welfare.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action’s detail.

The section of the State Plan affected by this action is Methods and Standards for Establishing Payment Rates-Other Types of Care: Obstetric/Pediatric Rates (Attachment 4.19-B, Supplement 1 (12 VAC 20-80-160)).

The Omnibus Budget Reconciliation Act (OBRA) of 1989 § 6402 added on § 1926 to the Social Security Act. This new section required the states to incorporate into their Medicaid State Plans the fees that they paid for certain obstetric and pediatric medical procedures. By April 1st of each year, these fees had to be submitted annually to the Health Care Financing Administration (HCFA). Additionally, the states were required to submit physician enrollment and Medicaid participation data in support of the adequacy of their fee levels. These fees were required to be effective on July 1st of each year.

DMAS has annually complied with all of the requirements of § 1926 of the Social Security Act and secured HCFA’s approval.

The Balanced Budget Act of 1997 (Public Law 105-33) § 4713 repealed § 1926 of the Social Security Act. Since DMAS no longer has a federal mandate to maintain these specific obstetric and pediatric fees in the State Plan, it is repealing this section.

This repealing action is consistent with the administration’s intent, as discussed in Executive Order Twenty-five (98), to repeal inappropriate, unnecessary regulations which lack a basis in federal or state law.

Repealing this regulation will not have any impact on recipients, their families, or Medicaid providers. Repealing this regulation will not have any effect on how much DMAS pays for its obstetric and pediatric procedures. DMAS routinely provides fee information to providers upon request.

There was no initial emergency regulation for this issue. This final regulation is identical to the previously proposed regulation.

Issues

Please provide a statement identifying the issues associated with the final regulatory action. The term “issues” means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The agency expects there to be no effects on recipients, their families, or Medicaid providers. The agency projects no negative issues involved in implementing this proposed change.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

No comments from the public were received.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.

DMAS proposes to repeal 12 VAC 30-80-160 in its entirety.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This issue has no impact on families as it makes no difference in covered services.